

REMARKS

Claims 37-52 are pending in the subject application with claims 41-44, 51 and 52 withdrawn from consideration. Applicants have herein canceled claims 38 and 48 without prejudice of disclaimer to applicants' right to pursue the subject matter of these claims in the future. In addition, applicant has amended claims 37, 40, 44, 46, 49, 50, 51 and 52, and added new claims 61-64. Applicants note that new claims 61-64 are readable on the species elected by applicants in response to the June 23, 2006 Restriction Requirement issued in connection with the above-identified application. Support for the amendments to claim 37 may be found in the specification as originally filed at, *inter alia*, page 11, line 24 to page 12, line 8; Figs 15A and 19; and at page 33, lines 16 to 19. Support for the amendments to claim 40 may be found in the specification as originally filed at, *inter alia*, page 26, lines 21 to 34. Support for the amendments to claim 44 may be found in the specification as originally filed at, *inter alia*, page 27, lines 6 to 9. Support for the amendments to claim 46 may be found in the specification as originally filed at, *inter alia*, page 26, lines 1-5. Support for the amendments to claim 49 may be found in the specification as originally filed at, *inter alia*, page 36, lines 1-24. Support for the amendments to claim 50 may be found in the specification as originally filed at, *inter alia*, page 37, lines 1-34. Support for the amendments to claim 51 may be found in the specification as originally filed at, *inter alia*, page 38, lines 1-32; and page 33, lines 16-19. Support for the amendments to claim 52 may be found in the specification as originally filed at, *inter alia*, page 39, lines 1-34. Support for new claim 61 may be found in the specification as originally filed at, *inter alia*, page 11, line 24 to page 12, line 8; and at page 36, lines 1-32. Support for new claim 62 may be found in the specification as originally filed at, *inter alia*, page 11, line 24 to page 12; and page 35, lines 1-6. Support for new claim 63 may be found in the specification as originally filed at, *inter alia*, page 33, lines 21-26. Support for new claim 64 may be found in the

specification as originally filed at, *inter alia*, page 33, lines 16-19. Applicants maintain that the amendments to the claims raise no issue of new matter. Accordingly, applicants respectfully request entry of this Amendment.

Claims Rejected Under 35 U.S.C. §102

In the December 20, 2006 Office Action the Examiner rejected claims 37, 39, 40 and 46-48 under 35 U.S.C. §102(a) as allegedly anticipated by Stemple (WO00/53805). The Examiner stated that Stemple discloses a nucleotide analogue comprising a base and unique label linked to the base via a cleavable linker, a deoxyribose and a cleavable chemical group to cap an OH at the 3'-position. The Examiner also rejected claims 37, 39, 40 and 45-48 under 35 U.S.C. §102(e) as allegedly anticipated by Anazawa et al. (U.S. Patent No. 6,136,543). The Examiner asserted that Anazawa et al. discloses a nucleotide analogue identical to the instant invention.

The Examiner also stated that claims 38, 49 and 50 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim.

In response, applicants respectfully traverse the Examiner's rejection. However, in order to expedite prosecution, and without conceding the correctness of the Examiner's position, applicants have herein amended the claims. Further to a May 15, 2007 telephone conference between Examiner Jezia Riley and Brian Amos of the undersigned's office, applicants understand that the Examiner deems the claims as amended hereinabove to be allowable, bar any further search the Examiner may perform to determine patentability.

Specifically, with regard to allowable claim 38, applicants have hereinabove amended independent claim 37 to recite the characteristics previously recited in dependent claim 38. With regard

to allowable dependent claim 49, applicants have added new independent claim 61 which recites the elements of previous claims 37 and 49.

With regard to allowable claim 50, applicants note that claim 50 is dependent from claim 49, which in turn depends from claim 37 which has been amended to incorporate the limitations of previously pending claim 38. Accordingly, applicants understand claim 50 to therefore be allowable as it now includes all the limitations of the base claim (claim 37 as amended) and the only intervening claim (claim 49).

Applicants further request, in light of the Examiner's statements in the June 23, 2006 Restriction Requirement issued in connection with the above-identified application that upon allowance of a generic claim applicants will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim and that claims 37-52 are generic, that the Examiner consider the species recited in withdrawn claims 41-44, 51 and 52.